MR. P. NARAYANA PILLAI: As a member of the Committee a word of personal explanation is due from me. Notice of the meeting was given to us during the Budget session and the meeting was arranged to be held after the business of the last day of the Budget session, and I had to hurry myself to Quilon ....

PRESIDENT: Order, order. Why this postmortem examination of the circumstances under which meetings were held or not held ?

MR. P. NARAYANA PILLAI: Sir, I wanted to show that it was not a dereliction of duty so far as I am concerned but it was a sense of duty.

PRESIDENT: Granted that honourable members did their duty in full responsibility, no further justification is needed.

MR. P. SIVARAMA PILLAI: Sir, apart from the time taken up by the Committee for the discussion of the Audit Report and Appropriation Accounts I find from Appendix B, page 172 of the Audit Report and Appropriation Accounts that there are 50 cases of misappropriation of Government funds. And I find that most of these happened in the Land Revenue Department which seems to monopolise the misappropriation of Government money, Out of these 50 cases 17 are from that Department, 2 from the Excise, 3 from Administration of Justice and about 4 or 5 from the Education Department, and the rest is distributed among other Departments.

MR. KAINIKKARA M. PADMANABHA PILLAI: What about the Anchal Department ?

MR. P. SIVARAMA PILLAI: I find that there are 5 cases in the Anchal Department. Sir, my only wonder is that the punishment meted out to the different officers are different though the offence is the same. In the case of the Land Revenue Department in certain cases the culprit was asked to refund the amount misappropriated and no other punishment was given ; but in some other departments like the Anchal Department, one or two men were dismissed from service and in other cases the delinquents were suspended. I should like to know why this differentiation is adopted in the matter of giving punishments to crimes of the same nature.

PRESIDENT: Does any other Honourable Member wish to speak?

(No honourable member rose to speak.)

PRESIDENT: The House has evidently considered the report sufficiently according to its judgment. Now we shall proceed to the next item in the agenda.

LEGISLATIVE BUSINESS.

THE TRAVANCORE MAINTENANCE ORDERS ENFORCEMENT BILL.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, the Travancore Maintenance Orders Enforcement Bill was presented some time back and it was pending consideration with the Select Committee. It was not possible to make any motion regarding this owing to certain difficulties in

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the matter of deciding the question of some change proposed in the Bill. Therefore, I have to make under Standing Order 4 a motion that this House do consider the Travancore Maintenance Orders Enforcement Bill and I move that the consideration of this Bill be continued.

MR. P. G. NARAYANAN UNNITHAN : I second it.

The motion was put to vote and declared carried. The Bill was taken into consideration.

MR. PUTHUPALLI S. KRISHNA PILLAI : Sir, I rise to present the report of the Select Committee appointed to consider the Travancore Maintenance Orders Enforcement Bill and move that the Bill as amended be taken into consideration.

MR. P. G. NARAYANAN UNNITHAN : I second it.

PRESIDENT : The question before the House is that Clause (1) stands part of the Bill.

The motion was put to vote and carried.

PRESIDENT : The question before the House is that Clause (2) stands part of the Bill.

MR. C. JEBAMONY NADAR : I move an amendment. In Clause 2 sub-clause (a), after the word " District " and before the word " Magistrate " add the words " or a First Class ".

In British India the Presidency Magistrate as well as the District Magistrate comes under this Statute. Section 66 of our Criminal Procedure Code shows that it is a Magistrate of the First Class or Second Class who can exercise jurisdiction in cases of this kind. Though the District Magistrate can exercise this power, it is very seldom exercised. There will be some practical difficulty also. I think it will be easier for the purpose that the 1st Class Magistrate also is entrusted with the powers for executing orders. If the District Magistrate issues a warrant there will be a considerable difficulty as well as delay in executing warrants. On the other hand it will be nearer to the First Class Magistrate. The First Class Magistrate can exercise jurisdiction and they have been exercising jurisdiction for ever so many years. I do not see any reason why they should not exercise the powers for summary procedure. The matter is not complicated. Therefore I move the amendment.

MR. PUTHUPALLI S. KRISHNA PILLAI : Who is according to the honourable member a Presidency Magistrate ?

MR. C. JEBAMONY NADAR : Is he in any way inferior to a District Magistrate ? I am just pointing out that in British Indian Act, the District Magistrate as well as the Presidency Magistrate exercise the jurisdiction. Of course I know the Presidency Magistrate will be exercising jurisdiction only in town.

MR. PUTHUPALLI S. KRISHNA PILLAI : I oppose the motion, Sir. I am afraid that the honourable member has not sufficiently grasped the implications contained here. The reference to the British Indian Act is not quite relevant, because there the court of summary jurisdiction is either a District Magistrate or a Presidency Magistrate and the jurisdiction of these two functionaries, I submit, is not concurrent. The

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District Magistrate as such does not exercise any jurisdiction in the Presidency Town and the summary court's power has been conferred on the District Magistrate or the Presidency Magistrate and under the scheme of the Act.....

MR. C. JEBAMONY NADAR: Is it not the case here also? The District Magistrate under the Criminal Procedure Code is competent to try all the cases triable by the First Class Magistrate, but the 1st Class Magistrate does not and cannot exercise all the powers of the District Magistrate. All the 1st Class Magistrates' Courts should be summary courts because the Act contemplates certain proceedings to be taken. Under the Criminal Procedure Code, maintenance cases.....

MR. PUTHUPALLI S. KRISHNA PILLAI: We are not concerned with maintenance cases. This Act purports to deal with entirely different orders. These orders are to be passed in the absence of the counter-petitioners. On getting evidence from the territory where the counter-petitioner is found to be living, we provide that such orders shall be executed in the other reciprocating territory. Similar provisions are made for the purpose of enforcing similar orders passed. In order that it may have its full guarantee, the highest officer functioning in the District has devoted his attention, has passed an order, has recorded an opinion, it is provided that the court of summary jurisdiction under it shall be only the District Magistrate. So far as Travancore is concerned it must be so; so far as British India is concerned it is so; so far as every British Indian Legislation is concerned it is so. What is the use of confusing the powers exercised by the 1st Class Magistrate and the District Magistrate?

MR. C. JEBAMONY NADAR: I do not press the amendment.

The amendment was by leave withdrawn.

The motion that clause 2 stands part of the Bill was put to vote and declared carried.

Clause 2 was added to the Bill.

MR. PUTHUPALLI S. KRISHNA PILLAI: In sub-clause (i) of Clause (3) for the words "that part" wherever they occur, the words "British India or such other part" shall be substituted.

It is only a formal defect which I have tried to cure. The amendment was put to vote and declared carried.

PRESIDENT: Clause (3) as amended stands part of the Bill.

The motion was put to vote and declared carried.

PRESIDENT: The question before the House is that Clauses (4) and (5) stand part of the Bill. The motion was put to vote and declared carried.

Clause 6.

MR. C. JEBAMONY NADAR: In clause 6, sub clause (1), line 7, after the word "case" and before the word "the" add the following:

"If the Court so orders,"

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Here I just want to point out one thing. Let us say a person, a subject of Travancore, is residing in Tinnevelly when the order is passed and steps are taken and also a notice is issued. He does not appear. Then the Travancore Court passes an order. If he is a subject of this State and a notice is issued to him, suppose if he does not appear, then the court passes an order. He being a subject of this State, when the court issues notice, he is bound to appear. If he does not appear, does it mean that the entire proceedings before the Court as well as the order is invalid because according to this clause "the order shall be provisional only and shall have no effect unless and until confirmed by a competent court in such territory" ? Now suppose when the order is taken to the British Indian Court for execution, the matter again comes to Travancore and then when the person comes to Travancore, he can plead that the order cannot stand. In that case there is a possibility to evade the order. To remove such a defect I am moving an amendment.

MR. PUTHUPALLI S. KRISHNA PILLAI: I am sorry that I have to oppose that amendment, Sir. It is not a question of the counter-petitioner or the person living in Tinnevelly, Madura or in England. The question involves a question of principle. Has Travancore Court any right to pass any order or any enforcible or legal order for the maintenance of a person resident in Travancore by any one who does not reside within the jurisdiction of that Court? This is a question of principle. For instance suppose instead of Tinnevelly where probably you can go...'...

PRESIDENT: Order, order.

MR. C. JEBAMONY NADAR: Is there not a difference between subjects of this State?

MR. PUTHUPALLI S. KRISHNA PILLAI: That again involves principle. We are not dealing with criminal jurisdiction as such. This Act deals only with an application for maintainance of one whom we are bound in law to maintain. This Act does not purport to deal with criminals. Even there it will be found that you cannot straight away punish that man; even there you have to apply for an extradition warrant for getting at the man, for bringing him here, trying him and convicting him. For all these matters jurisdiction is more or less personal. Under the criminal law the person against whom proceedings have to be taken should be before the court. That is the law here. Therefore, Sir, notwithstanding the fact that a person is not within the jurisdiction of our court, the court of summary jurisdiction may pass a provisional order against a non-resident if it is in respect of a petition for maintenance by one who is entitled in law to be maintained. The honourable members may remember that persons after having contracted marriage in England come away to Indian States. Any number of orders that may be passed by the Courts in England could not be executed in an Indian State. The same thing may happen here. Persons after incurring obligations to maintain wife and children run away to Malaya or Singapore. There is no means of enforcing orders passed by our courts against absentee counter petitioner. It

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is one thing to say that a valid order passed against the person by this Court at the time when that person was within the jurisdiction of this Court should be executable without further enquiry in the reciprocating territory and another thing to say that a court of summary jurisdiction should have power to pass an order against one who is not before court. These are fundamentally different matters.

Therefore it is provided that it should not be a matter of discretion with the Judge or the court of summary jurisdiction as Mr. Nadar wants it. In law, it ought to be only a provisional order subject to further confirmation. Because we are deciding a matter in the absence of a person who is entitled to oppose, it can be, in the nature of things, only a provisional order.

MR. C. JEBAMONY NADAR: Suppose the counter-petitioner resides in some other territory and when the order is sought to be executed there, he is again in Travancore. Does it mean that the order cannot be executed ?

MR. PUTHUPALLI S. KRISHNA PILLAI: My friend does not appear to understand the distinction that I made. We are not dealing with State subjects. This matter has nothing to do with State subjects. A non-Travancorean can be bound by an order of our court if he is living within its jurisdiction. Suppose a marriage has taken place between a person resident in Africa and a woman in Travancore, and he has gone away while she is living in the jurisdiction of the Trivandrum Magistrate. The court here can pass a provisional order if the marriage is valid according to the provisions of the law. That order can be enforced against the counter-petitioner if he is living in a reciprocating territory. The papers will be transmitted to the authorities there, they will be registered in a competent court and that court will issue a notice to the counter-petitioner. It is only after that that it is confirmed. So you can execute it only against a person after hearing him. The order is personal. The jurisdiction is personal. It has nothing to do with State subjects or British subjects or with territorials or non-territorials.

MR. KOTTALIL P. ABRAHAM: In case the counter-petitioner is a subject of this State, does this Act apply at all ?

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, is it any where stated in the Bill that this Act applies to State subjects ? Under Section 366 of the Criminal Procedure Code, the Court which is competent to take the matter into consideration is the Court within whose jurisdiction the counterpetitioner lives.

MR. C. JEBAMONY NADAR: Where he last resided.

MR. PUTHUPALLI S. KRISHNA PILLAI: But it should also be remembered that the Court is incompetent unless the counter-petitioner appears before the court or it can be proved to the satisfaction of the court that he is deliberately evading the service of process. That is one of the essential principles underlying all judicial orders.

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MR. C. JEBAMONY NADAR: I do not press the amendment.

The amendment was, by leave, withdrawn.

The question that Clause 6 do stand part of the Bill was put and carried.

Clause 6 was added to the Bill.

Clauses 7 to 12.

The question that Clauses 7 to 12 do stand part of the Bill was put and declared carried.

Clauses 7 to 12 were added to the Bill.

Preamble and Title.

The question that the Preamble and the Title do stand part of the Bill was put and carried. The Preamble and the Title were added to the Bill.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, as no material amendment has been made, I propose to move that the third reading of the Bill may be taken up. But before I do that, I move that in sub clause (1) of clause 1, after the word 'Act', the figures '1116' may be inserted.

MR. P. G. NARAYANAN UNNITHAN: I second it.

The amendment was put to vote and was declared carried.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I beg to move that the Travancore Maintenance Orders Enforcement Bill be passed.

MR. P. G. NARAYANAN UNNITHAN: I second it.

The question that the Bill may be passed was put and carried, and the Bill was passed.

THE TRAVANCORE COMPANIES ACT. (AMENDMENT) BILL.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I beg to present the report of the Select Committee appointed to consider the Travancore Companies Act (Amendment) Bill and move that the Bill as revised by the Select Committee be taken into consideration.

MR. P. G. NARAYANAN UNNITHAN: I second it.

The question was put and declared carried.

Clause 1 to 19.

The question that Clauses 1 to 19 do stand part of the Bill was put and carried. Clauses 1 to 19 were added to the Bill.

Preamble and Title.

The question that the Preamble and the Title do stand part of the Bill was put and carried. The Preamble and the Title were added to the Bill.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, before I move for the third reading of the Bill, I beg to move that in sub-clause (1) of Clause 1, after the figures '111' the figure '6' be inserted.

MR. P. G. NARAYANAN UNNITHAN: I second it.

The amendment was put and carried.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I move that the Travancore Companies Act (Amendment) Bill be passed.

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MR. P. G. NARAYANAN UNNITHAN: I second it.

The question that the Bill be passed was put and carried, and the Bill was passed.

THE TRAVANCORE EXPLOSIVE BILL.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I beg to present the report of the Select Committee appointed to consider the Travancore Explosives Bill and move that the Bill as revised by the Select Committee be taken into consideration.

MR. P. G. NARAYANAN UNNITHAN: I second it.

The motion was was put and carried.

Clause 1.

The question that clause 1 do stand part of the Bill was put and declared carried. Clause 1 was added to the Bill.

Clause 2.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I beg to move that in sub-clause (6) of Clause 2 for the word 'sea,' the word 'water' shall be substituted.

MR. P. G. NARAYANAN UNNITHAN: I second it.

The amendment was put to vote and declared carried.

The question that Clause 2, as amended, do stand part of the Bil was put and declared carried.

Clause 2, as amended, was added to the Bill.

Clauses 3 to 16.

The question that Clauses 3 to 16 do stand part of the Bill was put and declared carried. Clauses 3 to 16 were added to the Bill.

Preamble and Title.

The question that the Preamble and the Title do stand part of the Bill was put and carried. The Preamble and the Title were added to the Bill.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, before I move for the third reading of the Bill, I beg to move that in sub-clause (1) of clause 1 after the figures '111,' the figure '6' may be added.

MR. P. G. NARAYANAN UNNITHAN: I second it.

The amendment was put to vote and declared carried.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I beg to move that the Travancore Explosives Bill, as amended, be passed.

MR. P. G. NARAYANAN UNNITHAN: I second it.

The question was put and carried and the Bill was passed.

THE TRAVANCORE PATENTS AND DESIGNS BILL.

MR. PUTHUPALLI S. KRISHNA PILLAI: Sir, I beg to present the report of the Select Committee appointed to consider the Travancore Patents and Designs Bill and move that the Bill as revised by the Select Committee be taken into consideration.

MR. P. G. NARAYANAN UNNITHAN: I second it.

The question was put and declared carried.

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